



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,958	09/22/2003	Henry Drummond Boswell	CM2632MC	1197
27752	7590	03/28/2006	EXAMINER	
THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION WINTON HILL TECHNICAL CENTER - BOX 161 6110 CENTER HILL AVENUE CINCINNATI, OH 45224			ELHILo, EISA B	
			ART UNIT	PAPER NUMBER
			1751	

DATE MAILED: 03/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

1

Office Action Summary	Application No.	Applicant(s)	
	10/667,958	BOSWELL ET AL.	
	Examiner	Art Unit	
	Eisa B. Elhilo	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 January 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3 and 5-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3 and 5-17 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

- 1 This action is responsive to the amendment filed on January 13, 2006.
- 2 Claims 1-3, 6-10, 13 and the newly added claim 15 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in alternative, under 103(a) obvious over Dias et al. (US' 355), for the reasons set forth in the previous office action mailed on July 13,2005.
- 3 Claim 5, stands rejected under 35 U.S.C. 103(a) as being unpatentable over Dias et al. (US' 355) in view of Wenke (US' 436), for the reasons set forth in the previous office action mailed on July 13,2005.
- 4 Claims 11-12, 14 and the newly added claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dias et al. (US' 355), for the reasons set forth in the previous office action mailed on July 13,2005.

Response to Applicant's Arguments

- 5 Applicant's arguments filed 1/13/2006 have been fully considered but they are not persuasive.

With respect to the rejection of the claims under 102(b) or in alternative under 103(a) over Dias et al. (US' 355), Applicant argues that Dias is not anticipatory because it fails to disclose each and every limitation of Applicants' claims with sufficient specificity. Applicant also argues that the physical properties of the claimed invention are not inherent in the exemplified composition of Dias.

The examiner respectfully disagrees with the above arguments because "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegeaal Bros. v. Union Oil Co. of*

California, 824 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "When a claim covers several structures or compositions, either generically or as alternatives, the claim is deemed anticipated if any of the structures or compositions within the scope of the claims is known in the prior art." *Brown v. 3M*, 265 F.3d 1349, 1351, 60 USPQ2d 1375, 1376 (Fed. Cir. 2001). In this case Dias et al. (US' 355) teaches a composition that comprises an oxidizing agent (see col. 3, line 3) and sequestrant (chelant) agent of Glycinamide-N,N'-disuccinic acid (GADS) in the claimed amount (see col. 24, line 50) which inherently would have the same physical properties as claimed. Therefore, the claims are anticipated or in alternative obvious over Dias et al.

With respect to the declaration provided by the applicant to show unexpected results of the claimed invention over the prior art of record, the examiner's position is that the declaration is not commensurate in the scope with the claims because the "objective evidence of nonobviousness must be commensurate in the scope with the claims which the evidence is offered to support," In other words, the showing of unexpected results must be reviewed to see if the results occur over the entire claimed range. *In re Clemens*, 622 F.2d 1029, 1036, 206 USPQ 289, 296 (CCPA 1980). See also *In re Granselli*, 713 F.2d 731, 741, 218 USPQ 769, 777 (F3d. Cir. 1983) (Claims were directed to certain catalysts containing an alkali metal. Evidence presented to rebut an obviousness rejection compared catalysts containing sodium with the prior art. The court held this evidence insufficient to rebut the *prima facie* case because experiments limited to sodium were not commensurate in the scope with the claims.). In this case the Comparative data in the declaration is limited to the chelant compound EDDS, while the claims do not recite the chelant compound EDDS. Therefore, the declaration is not commensurate in the scope with the claims.

Art Unit: 1751

6 **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B. Elhilo whose telephone number is (571) 272-1315. The examiner can normally be reached on M - F (8:00 -5:30) with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 1751



Eisa Elhilo

Primary Examiner

Art Unit 1751

March 21, 2006